

FILED

2014 JAN -9 PM 3:30
CLERK U.S. DISTRICT COURT
CENTRAL DIST. OF CALIF.
SANTA ANA

1 ANTHONY J. ORSHANSKY, Cal. Bar No. 199364
2 anthony@counselonegroup.com
3 JUSTIN KACHADOORIAN, Cal. Bar No. 260356
4 justin@counselonegroup.com
5 **COUNSELONE, P.C.**
6 9301 Wilshire Boulevard, Suite 650
7 Beverly Hills, California 90210
8 Telephone: (310) 277-9945
9 Facsimile: (424) 277-3727

10 **KAZEROUNI LAW GROUP, APC**
11 Abbas Kazerounian, Esq. (SBN: 249203)
12 ak@kazlg.com
13 245 Fischer Avenue, Unit D1
14 Costa Mesa, CA 92626
15 Telephone: (800) 400-6808
16 Facsimile: (800) 520-5523

17 [Other Plaintiff's Counsel on signature page]

18 Attorneys for Plaintiff
19 **AYMAN MOUSA**, on behalf of himself and others
20 similarly situated

21 **UNITED STATES DISTRICT COURT**
22 **CENTRAL DISTRICT OF CALIFORNIA**

23 **AYMAN MOUSA**, on behalf of himself) Case No. **SACV14-00037 DOC (ANx)**
24 and all others similarly situated,)

25 Plaintiffs,)

26 v.)

27 **TARGET CORPORATION**,)

28 Defendant.)

CLASS ACTION COMPLAINT

1. VIOLATION OF CALIFORNIA UNFAIR COMPETITION LAW
2. NEGLIGENCE
3. NEGLIGENCE PER SE
4. CONVERSION
5. INVASION OF PRIVACY
6. VIOLATION OF CALIFORNIA DATA BREACH ACT
7. BAILMENT

DEMAND FOR JURY TRIAL

INTRODUCTION

1
2 1. AYMAN MOUSA ("PLAINTIFF") brings this class action for
3 damages, injunctive relief, and any other available legal or equitable remedies,
4 resulting from the illegal actions of TARGET CORPORATION ("DEFENDANT")
5 and its related entities, subsidiaries and agents, in failing to secure and protect its
6 customers' personal information ("INFORMATION") provided to DEFENDANT,
7 which encompasses e-mail addresses, passwords, credit and debit card numbers,
8 expiration dates, and mailing and billing addresses, in accordance with both industry
9 security standards and DEFENDANT'S own security standards, which have long
10 been deprecated by industry experts as being substandard. PLAINTIFF alleges as
11 follows upon personal knowledge as to himself and his own acts and experiences,
12 and, as to all other matters, upon information and belief, including investigation
13 conducted by his attorneys.

14 2. On or about December 19, 2013, DEFENDANT made public its largest
15 and most wide-reaching security breach to date. DEFENDANT revealed that
16 hackers had succeeded in gaining access to forty (40) million credit card records,
17 debit card records, and other personal financial information for many of
18 DEFENDANT'S customers. Said breach, which was caused by DEFENDANT'S
19 failure to employ adequate security standards with respect to the handling of its
20 customers' INFORMATION, has resulted in PLAINTIFF and members of the Class
21 (as defined below) having their INFORMATION compromised and their finances
22 placed in jeopardy.

JURISDICTION AND VENUE

23
24 3. Jurisdiction is proper under 28 U.S.C. § 1332(d)(2) because the claims
25 of the individual class members, when aggregated among a proposed class
26 numbering in the millions, exceeds the \$5,000,000 threshold for federal court
27 jurisdiction. Further, PLAINTIFF alleges a national class, which will result in at
28 least one class member belonging to a different state than that of DEFENDANT.

1 Therefore, both elements of diversity jurisdiction under the Class Action Fairness
2 Act of 2005 ("CAFA") are present, and this Court has jurisdiction.

3 4. Venue is proper in the United States District Court for the Central
4 District of California pursuant to 28 U.S.C. § 1391(b) and 1441(a) because the
5 events giving rise to PLAINTIFF'S causes of action against DEFENDANT occurred
6 within the State of California and the County of Orange, as PLAINTIFF resides in
7 Ladera Ranch, California and within this judicial district.

8 **PARTIES**

9 5. PLAINTIFF is, and at all times mentioned herein was, an individual
10 citizen and resident of the County of Orange, State of California.

11 6. PLAINTIFF is informed and believes, and thereon alleges, that
12 DEFENDANT is, and at all times mentioned herein was, a corporation incorporated
13 in the State of Minnesota, with its principal place of business in the City of
14 Minneapolis, State of Minnesota.

15 7. PLAINTIFF is informed and believes, and thereon alleges, that at all
16 times relevant DEFENDANT conducted business in the State of California.

17 **FACTUAL ALLEGATIONS**

18 8. DEFENDANT is a nationwide retailer ranked 36th on the Fortune 500
19 list.

20 9. PLAINTIFF is a regular shopper at Target stores, and used his debit
21 card at a Target store multiple times in this Judicial District between November 27
22 and December 15, 2013.

23 10. Between November 27, 2013 and December 15, 2013, computer
24 hackers broke into DEFENDANT'S network that contained its customers' personal
25 financial information, including credit card and debit card information.

26 11. The data breach affected approximately forty (40) million credit and
27 debit cards swiped in U.S. TARGET stores between November 27 and December
28 15, 2013.

1 12. News of the security breach was first published on or about December
2 18, 2013, by Brian Krebs, at [http://krebsonsecurity.com/2013/12/sources-target-](http://krebsonsecurity.com/2013/12/sources-target-investigating-data-breach)
3 [investigating-data-breach](http://krebsonsecurity.com/2013/12/sources-target-investigating-data-breach). Mr. Krebs' website reported this breach before
4 DEFENDANT first notified its customers of such breach.

5 13. As to the breach, Mr. Krebs' website explained: "The type of data
6 stolen — also known as 'track data' — allows crooks to create counterfeit cards by
7 encoding the information onto any card with a magnetic stripe. If the thieves also
8 were able to intercept PIN data for debit transactions, they would theoretically be
9 able to reproduce stolen debit cards and use them to withdraw cash from ATMs."¹

10 14. According to Krebs' article, "the thieves may also have accessed PIN
11 numbers for affected customers' debit cards, allowing the thieves to withdraw
12 money from those customers' bank accounts."²

13 15. Subsequently, multiple news sources detailed the breach on or about
14 December 19, 2013.

15 16. As multiple sources began reporting news of the breach, DEFENDANT
16 issued a statement regarding the breach generally; however, this initial statement did
17 not put impacted customers on notice as to breaches specific to them.

18 17. DEFENDANT'S first statement was merely set forth on its corporate
19 website, as opposed to the consumer website where customers shop; this was done
20 on December 19, 2013.

21 18. The initial statement by DEFENDANT essentially confirmed "that the
22 information compromised as a result of the breach included customer names, credit
23 or debit card numbers and their expiration dates, and the three-digit CVV security
24 codes for such credit and debit cards."³

25 19. DEFENDANT did not notify PLAINTIFF of the security breach until
26 December 20, 2013, by e-mail, wherein DEFENDANT merely regurgitated its

27 ¹ <http://krebsonsecurity.com/2013/12/sources-target-investigating-data-breach/>

28 ² *Id.*

³ [https://corporate.target.com/discover/article/Important-Notice-Unauthorized-access-to-payment-](https://corporate.target.com/discover/article/Important-Notice-Unauthorized-access-to-payment-ca)
ca

1 statement from December 19, 2013, on its website; thus, DEFENDANT did not
2 directly notify PLAINTIFF of the breach until the day after it posted its first
3 statement on its website.

4 20. DEFENDANT sent PLAINTIFF a subsequent notice regarding the
5 breach on or about December 21, 2013, a day after the second notice was posted on
6 DEFENDANT'S corporate website.

7 21. Hackers could not have accessed this information and installed the
8 software on DEFENDANT'S point-of-sale machines but for DEFENDANT'S
9 negligence.

10 22. DEFENDANT failed to implement and maintain reasonable security
11 procedures and practices appropriate to the nature and scope of the information
12 compromised in the data breach.

13 23. DEFENDANT knew or should have known that its systems for
14 processing and/or storing customers' debit and credit card information were not
15 secure and left the INFORMATION of PLAINTIFF and other members of the Class
16 vulnerable to theft.

17 24. DEFENDANT recklessly, or as a matter of gross negligence, failed to
18 provide reasonable and adequate security measures to ensure that the personal
19 financial information of its customers would not be compromised.

20 25. Additionally, DEFENDANT failed to notify PLAINTIFF and the other
21 members of the Class in a timely manner of the security breach, as required by law.

22 26. PLAINTIFF and the members of the Class have all suffered irreparable
23 harm and monetary damages as a result of DEFENDANT'S unlawful and wrongful
24 conduct heretofore described.

25 27. The compromised INFORMATION, including PLAINTIFF'S, is "as
26 good as gold" to identity thieves, per the view of the Federal Trade Commission
27 ("FTC").⁴ According to the FTC, identity theft occurs when someone uses another's

28 ⁴ FTC, *About Identity Theft*, available at
<http://www.ftc.gov/bcp/edu/microsites/idtheft/consumers/about-identitytheft.html> (last accessed
4

1 personal identifying information, such as that person's name, address, credit card
 2 number, credit card expiration dates, and other information, without permission, to
 3 commit fraud or other crimes.⁵ The FTC estimates that as many as 9 million
 4 Americans have their identities stolen each year.⁶

5 28. Identity thieves can use identifying data to open new financial accounts
 6 and incur charges in another person's name, take out loans in another person's name,
 7 incur charges on existing accounts, or clone ATM, debit, or credit cards.⁷

8 29. Identity thieves can use personal information such as that pertaining to
 9 the Class, which DEFENDANT failed to keep secure, to perpetrate a variety of
 10 crimes that do not cause financial loss but nonetheless harm the victims.

11 CLASS ACTION ALLEGATIONS

12 30. PLAINTIFF brings this action on behalf of himself and on behalf of all
 13 others similarly situated ("the Class").

14 31. PLAINTIFF represents, and is a member of, the Class, consisting of:

15
 16 All persons within the United States who used a debit or
 17 credit card at DEFENDANT'S stores nationwide and
 18 whose personal and/or financial information was
 19 compromised between November 27, 2013, and December
 20 15, 2013.

21 32. DEFENDANT and its employees or agents are excluded from the
 22 Class. PLAINTIFF does not know the number of members in the Class, but
 23 believes the Class members number in the millions, if not more. Thus, this matter
 24 should be certified as a Class action to assist in the expeditious litigation of this
 25 matter.

26 33. PLAINTIFF and members of the Class were harmed by the acts and
 27 omissions of DEFENDANT in at least the following ways: PLAINTIFF and

28 Jan. 6, 2014).

⁵ Id.

⁶ Id.

⁷ Id.

1 members of the Class have lost money or property as a result of DEFENDANT'S
2 negligence and concealments.

3 34. PLAINTIFF reserves the right to amend or modify the class description
4 with greater particularity or further division into subclasses or limitation to
5 particular issues.

6 35. The joinder of the Class members is impractical and the disposition of
7 their claims in the Class action will provide substantial benefits both to the parties
8 and to the court. The Class can be identified through DEFENDANT'S records or
9 DEFENDANT'S agents' records.

10 36. There is a well-defined community of interest in the questions of law
11 and fact involved affecting the parties to be represented. The questions of law and
12 fact pertaining to the Class predominate over questions which may affect individual
13 Class members, including *inter alia*:

- 14 a. Whether DEFENDANT unlawfully used, maintained, lost or
15 disclosed Class members' personal and/or financial information;
- 16 b. Whether DEFENDANT unreasonably delayed in notifying affected
17 customers of the data breach;
- 18 c. Whether DEFENDANT failed to implement and maintain
19 reasonable security procedures and practices appropriate to the
20 nature and scope of the information compromised in the data
21 breach;
- 22 d. Whether DEFENDANT violated the requirements of California
23 Civil Code Section 1798.80 *et seq.*;
- 24 e. Whether DEFENDANT'S conduct violated the California Business
25 & Professions Code § 17200, *et seq.*;
- 26 f. Whether DEFENDANT'S conduct was negligent;
- 27 g. Whether DEFENDANT acted willfully and/or with oppression,
28 fraud, or malice;

- h. Whether DEFENDANT'S conduct constituted Intrusion;
- i. Whether DEFENDANT'S conduct constituted Public Disclosure of Private Facts;
- j. Whether DEFENDANT'S conduct violated Class members' California Constitutional Right to Privacy;
- k. Whether DEFENDANT'S conduct constituted Bailment;
- l. Whether DEFENDANT'S conduct constituted Conversion; and
- m. Whether PLAINTIFF and the Class are entitled to damages, civil penalties, punitive damages, and/or injunctive relief.

37. As a person whose personal information was compromised as a result of DEFENDANT'S wrongful conduct as herein alleged, PLAINTIFF is asserting claims that are typical of the Class. PLAINTIFF will fairly and adequately represent and protect the interests of the Class in that PLAINTIFF has no interests antagonistic to any member of the Class.

38. PLAINTIFF and the members of the Class have all suffered irreparable harm as a result of the DEFENDANT'S unlawful and wrongful conduct. Absent a class action, the Class will continue to face the potential for irreparable harm. Because of the size of the individual Class member's claims, few, if any, Class members could afford to seek legal redress for the wrongs complained of herein.

39. PLAINTIFF has retained counsel experienced in handling class action lawsuits.

40. A class action is a superior method for the fair and efficient adjudication of this controversy. The interest of Class members in individually controlling the prosecution of separate claims against DEFENDANT is small. Management of these claims is likely to present significantly fewer difficulties than

1 those presented in many class claims. Litigating this case as a class action will
 2 reduce the possibility of repetitious litigation relating to DEFENDANT'S conduct.

3 41. DEFENDANT has acted on grounds generally applicable to the Class,
 4 thereby making appropriate final injunctive relief and corresponding declaratory
 5 relief with respect to the Class as a whole.

6 **FIRST CAUSE OF ACTION**

7 **UNLAWFUL, UNFAIR, AND FRAUDULENT BUSINESS**

8 **PRACTICES UNDER CALIFORNIA BUSINESS AND PROFESSIONS**

9 **CODE § 17200, *et seq.***

10 42. PLAINTIFF incorporates by reference all of the above paragraphs of
 11 this Complaint as though fully stated herein.

12 43. DEFENDANT'S failure to disclose information concerning the data
 13 breach directly and promptly to affected customers, constitutes a fraudulent act or
 14 practice in violation of California Business & Professions Code section 17200 *et*
 15 *seq.*

16 44. DEFENDANT'S acts, practices, and omissions detailed above
 17 constitute unlawful, unfair and/or fraudulent business practices and acts, within the
 18 meaning of California Business & Professions Code § 17200 *et seq.*

19 45. DEFENDANT'S acts, practices, and omissions detailed above
 20 constitute fraudulent practices in that they are likely to deceive a reasonable
 21 consumer in that PLAINTIFF and Class members were induced to shop at Target
 22 stores and pay for merchandise using credit or debit cards based on the
 23 understanding, whether explicit or implied, that DEFENDANT had implemented
 24 appropriate security protocols and that, in the event of a loss or breach,
 25 DEFENDANT would promptly notify affected customers.

26 46. DEFENDANT'S acts, practices, and omissions detailed above,
 27 constitute unlawful practices and/or acts as they constitute violations of numerous
 28

1 provisions of California law, including but not limited to Cal. Civ. Code § 1798.80
2 *et seq.* and the Consumer Legal Remedies Act, Cal. Civ. Code § 1750 *et seq.*

3 47. DEFENDANT has committed all of the aforesaid acts of infringement
4 deliberately, willfully, maliciously and oppressively, without regard to PLAINTIFF
5 and Class members' legal rights. As a direct and proximate result of
6 DEFENDANT'S unlawful, unfair and fraudulent business practices as alleged
7 herein, PLAINTIFF and Class members have suffered injury in fact and lost money
8 and property, including but not limited to unreimbursed losses stemming from
9 identity theft as well as unreimbursed expenses and/or time spent on credit-
10 monitoring and identity theft insurance; time spent scrutinizing bank statements,
11 credit-card statements, and credit reports; missed wages; late payments on bills;
12 overdraft charges; expenses and/or time spent initiating fraud alerts; and the
13 diminished value of the services they received. PLAINTIFF and members of the
14 Class have suffered and will continue to suffer other forms of injury and/or harm
15 including, but not limited to, anxiety, emotional distress, loss of privacy, and other
16 economic and non-economic losses.

17 48. Pursuant to California Business & Professions Code § 17203,
18 PLAINTIFF seeks an order of this Court prohibiting DEFENDANT from engaging
19 in the unlawful, unfair, or fraudulent business acts or practices set forth in this
20 Complaint and/or ordering DEFENDANT to perform its obligations under the law.

21 22 **SECOND CAUSE OF ACTION**

23 **NEGLIGENCE**

24 49. PLAINTIFF incorporates by reference all of the above paragraphs of
25 this Complaint as though fully stated herein.

26 50. DEFENDANT came into possession of the INFORMATION of
27 PLAINTIFF and other Class members and thus had a duty to exercise reasonable
28 care in safeguarding and protecting such INFORMATION from being

1 compromised, lost, stolen, misused, and/or disclosed to unauthorized parties.

2 51. Moreover, DEFENDANT had a duty to timely disclose that the
3 INFORMATION of PLAINTIFF and Class members that was within its possession
4 had been compromised.

5 52. DEFENDANT had a duty to have procedures in place to detect and
6 prevent the loss or unauthorized dissemination of said INFORMATION.

7 53. DEFENDANT, through its actions and/or omissions, unlawfully
8 breached its duty to PLAINTIFF and Class members by failing to exercise
9 reasonable care in protecting and safeguarding said INFORMATION within its
10 possession.

11 54. DEFENDANT, through its actions and/or omissions, unlawfully
12 breached its duty to PLAINTIFF and Class members to exercise reasonable care by
13 failing to have appropriate procedures in place to detect and prevent dissemination
14 of PLAINTIFF'S and other Class members' INFORMATION.

15 55. DEFENDANT, through its actions and/or omissions, unlawfully
16 breached its duty to timely disclose to PLAINTIFF and the Class members the fact
17 that their INFORMATION had been compromised.

18 56. DEFENDANT'S negligent and wrongful breach of its duties owed to
19 PLAINTIFF and the Class proximately caused PLAINTIFF and Class members'
20 INFORMATION to be compromised.

21 57. As a direct and proximate cause of DEFENDANT'S failure to exercise
22 reasonable care and use commercially reasonable security measures its databases
23 were accessed without authorization and customers' INFORMATION was
24 compromised and exposed to unauthorized access.

25 58. As a further direct and proximate cause of DEFENDANT'S failure to
26 exercise reasonable care as described herein, PLAINTIFF and Class members have
27 suffered economic and non-economic damages as described above and prayed for
28 below in an amount according to proof at trial. PLAINTIFF is informed and

1 believes and based thereupon alleges that DEFENDANT will continue to
2 negligently fail to adequately protect the INFORMATION of PLAINTIFF and other
3 customers. As a result of DEFENDANT'S conduct PLAINTIFF seeks declaratory
4 and injunctive relief, restitution, and compensatory and punitive damages.

5 59. In failing to secure PLAINTIFF'S and Class members'
6 INFORMATION and promptly notify them of a data breach or loss, as alleged
7 above, DEFENDANT was guilty of oppression, fraud, or malice, in that
8 DEFENDANT acted or failed to act with a willful and conscious disregard of
9 PLAINTIFF'S and Class members' rights. PLAINTIFF therefore seeks an award of
10 damages, including punitive damages, in an amount to be proven at trial, on behalf
11 of himself and the Class.

12 **THIRD CAUSE OF ACTION**

13 **NEGLIGENCE PER SE**

14 60. PLAINTIFF incorporates by reference all of the above paragraphs of
15 this Complaint as though fully stated herein.

16 61. As herein, DEFENDANT violated various statutes, including
17 California Civil Code §§ 1798.80 et seq., which requires a business that licenses,
18 owns, or maintains INFORMATION to give prompt notification to persons
19 potentially affected by a security breach.

20 62. This statute was intended to protect customers' information from
21 unauthorized disclosure and to ensure prompt notification of any such unauthorized,
22 unlawful disclosure.

23 63. As a direct and proximate cause of DEFENDANT'S violation of the
24 foregoing statutes, PLAINTIFF and other consumers have suffered injury, including
25 actual identity theft. Moreover, PLAINTIFF and Class members suffered and will
26 continue to suffer actual damages including, but not limited to, expenses and/or time
27 spent on credit-monitoring and identity theft insurance; time spent scrutinizing bank
28 statements, credit-card statements, and credit reports; missed wages; late payments

1 on bills; overdraft charges; expenses and/or time spent initiating fraud alerts; and the
2 diminished value of the services they received. PLAINTIFF and members of the
3 Class have suffered and will continue to suffer other forms of injury and/or harm
4 including, but not limited to, anxiety, emotional distress, loss of privacy, and other
5 economic and non-economic losses.

6 64. By engaging in the negligent conduct as alleged above, DEFENDANT
7 was guilty of oppression, fraud, or malice, in that DEFENDANT acted or failed to
8 act with a willful and conscious disregard of PLAINTIFF'S and Class members'
9 rights. PLAINTIFF therefore seeks an award of damages, including punitive
10 damages, in an amount to be proven at trial, on behalf of himself and the Class.

11 **FOURTH CAUSE OF ACTION**

12 **CONVERSION**

13 65. PLAINTIFF incorporates by reference all of the above paragraphs of
14 this Complaint as though fully stated herein.

15 66. Plaintiff and Class members were the owners and possessors of their
16 INFORMATION. As the result of DEFENDANT'S wrongful conduct,
17 DEFENDANT has interfered with the PLAINTIFF'S and Class members' rights to
18 possess and control such property, to which they had a superior right of possession
19 and control at the time of conversion.

20 67. As a direct and proximate result of DEFENDANT'S conduct,
21 PLAINTIFF and the Class members suffered injury, damage, loss or harm and
22 therefore seek compensatory damages.

23 68. Plaintiff and the Class members did not consent to DEFENDANT'S
24 mishandling and loss of their INFORMATION.

25 69. In converting the INFORMATION of PLAINTIFF and Class members,
26 DEFENDANT has acted with malice, oppression and in conscious disregard of the
27 PLAINTIFF'S and Class members' rights. PLAINTIFF, therefore, seeks an award
28 of punitive damages on behalf of the Class.

1
2 **FIFTH CAUSE OF ACTION**
3 **INVASION OF PRIVACY**

4 70. PLAINTIFF incorporates by reference all of the above paragraphs of
5 this Complaint as though fully stated herein.

6 71. The INFORMATION of PLAINTIFF and other consumers of
7 DEFENDANT was and continues to be private information. PLAINTIFF and each
8 member of the Class had a legally protected informational privacy interest in the
9 confidential and sensitive information that DEFENDANT obtained and unlawfully
10 disseminated.

11 72. PLAINTIFF and other members of the Class had a legally protected
12 autonomy privacy interest regarding their INFORMATION without unwanted
13 observation, intrusion, or interference.

14 73. PLAINTIFF and members of the Class reasonably expected that their
15 confidential and sensitive information would be kept private.

16 74. DEFENDANT'S failure to secure and protect PLAINTIFF'S and other
17 customers' INFORMATION resulted in the public disclosure and publication of
18 such private information to third parties, including but not limited to hackers.

19 75. Dissemination of PLAINTIFF'S and other consumers'
20 INFORMATION is not of a legitimate public concern; publicity of their
21 INFORMATION would be, is, and will continue to be offensive to PLAINTIFF,
22 putative class members, and other reasonable people.

23 76. DEFENDANT'S wrongful actions and/or inaction as described above
24 constituted and continue to constitute a serious invasion of the privacy of
25 PLAINTIFF and other consumers by publicly disclosing private facts (*i.e.*, their
26 INFORMATION).

27 77. PLAINTIFF and other consumers were and continue to be damaged as
28 a direct and/or proximate result of DEFENDANT'S invasion of their privacy by

1 publicly disclosing their private facts (*i.e.*, their INFORMATION) in the form of,
2 *inter alia*, actual monetary losses, expenses for credit-monitoring and identity-theft
3 insurance, out-of-pocket expenses, anxiety, emotional distress, loss of privacy, and
4 other economic and non-economic harm, for which they are entitled to
5 compensation.

6 78. In violating the privacy of PLAINTIFF and Class members as alleged
7 above, DEFENDANT was guilty of oppression, fraud, or malice, in that
8 DEFENDANT acted or failed to act with a willful and conscious disregard of
9 PLAINTIFF'S and Class members' rights. PLAINTIFF therefore seeks an award of
10 damages, including punitive damages, in an amount to be proven at trial, on behalf
11 of himself and the Class.

12
13 **SIXTH CAUSE OF ACTION**

14 **VIOLATION OF THE CALIFORNIA DATA BREACH ACT, CAL**

15 **CIV. CODE § 1798.80, *et seq.***

16 79. PLAINTIFF incorporates by reference all of the above paragraphs of
17 this Complaint as though fully stated herein.

18 80. The data breach constituted a "breach of the security system" of
19 DEFENDANT pursuant to California Civil Code § 1798.82(g).

20 81. DEFENDANT recklessly, or as a matter of gross negligence, failed to
21 provide reasonable and adequate security measures.

22 82. DEFENDANT unreasonably delayed informing PLAINTIFF and
23 members of the Class about the security breach of the Class members'
24 INFORMATION after DEFENDANT knew of the breach.

25 83. DEFENDANT failed to disclose to PLAINTIFF and members of the
26 Class, in the most expedient time possible, the breach of security of their
27 INFORMATION after DEFENDANT knew of the breach.

28 84. As a result of DEFENDANT'S violation of California Civil Code §

1 1798.82, PLAINTIFF and members of the Class suffered economic and non-
2 economic damages, as alleged above.

3 85. PLAINTIFF, individually and on behalf of the members of the Class,
4 seeks all remedies available under California Civil Code § 1798.84.

5 86. PLAINTIFF, individually and on behalf of the members of the Class,
6 also seeks reasonable attorneys' fees and costs under California Civil Code §
7 1798.84(g).

8 87. By violating California Civil Code § 1798.80 *et seq.* as alleged above,
9 DEFENDANT was guilty of oppression, fraud, or malice, in that DEFENDANT
10 acted or failed to act with a willful and conscious disregard of PLAINTIFF'S and
11 Class members' rights. PLAINTIFF therefore seeks an award of damages,
12 including punitive damages, in an amount to be proven at trial, on behalf of himself
13 and the Class.

14 **SEVENTH CAUSE OF ACTION**

15 **BAILMENT**

16 88. PLAINTIFF incorporates by reference all of the above paragraphs of
17 this Complaint as though fully stated herein.

18 89. PLAINTIFF and the Class members delivered and entrusted their
19 INFORMATION to DEFENDANT for the sole purpose of receiving services from
20 DEFENDANT.

21 90. During the time of bailment, DEFENDANT owed PLAINTIFF and the
22 Class members a duty to safeguard this information properly and maintain
23 reasonable security procedures and practices to protect such information.
24 DEFENDANT breached this duty.

25 91. As a result of these breaches of duty, PLAINTIFF and the Class
26 members have suffered harm, as alleged above.

27 92. PLAINTIFF seeks actual damages on behalf of the Class.

1 93. Moreover, DEFENDANT, by and through the conduct alleged above,
2 was guilty of oppression, fraud, or malice, in that DEFENDANT acted or failed to
3 act with a willful and conscious disregard of PLAINTIFF'S and Class members'
4 rights. PLAINTIFF therefore seeks an award of damages, including punitive
5 damages, in an amount to be proven at trial, on behalf of himself and the Class.

6 **PRAYER FOR RELIEF**

7 WHEREFORE, PLAINTIFF respectfully requests that the Court grant
8 PLAINTIFF and the Class members the following relief against DEFENDANT:

- 9 a. An order certifying the proposed class and appointing PLAINTIFF and
10 PLAINTIFF'S counsel to represent the Class;
11 b. Injunctive relief prohibiting DEFENDANT from engaging in such conduct
12 as alleged herein in the future;
13 c. Actual, statutory and/or punitive damages;
14 d. Restitution, or any other equitable relief the Court may deem just and
15 proper;
16 e. Pre-judgment and post-judgment interest;
17 f. Reasonable attorneys' fees and costs of the suit, including expert witness
18 fees; and
19 g. Any other relief the Court may deem just and proper.

20
21
22
23
24
25 ///

26 ///

27 ///

28 ///

TRIAL BY JURY

PLAINTIFF hereby demands a jury trial on all issues so triable.

Dated: January 8, 2014

Respectfully Submitted

By: 

Abbas Kazerounian, Esq.

KAZEROUNI LAW GROUP, APC

Attorney for Plaintiff

TODD M. FRIEDMAN, Cal. Bar No. 216752

tfriedman@attorneysforconsumers.com

NICHOLAS J. BONTRAGER, Cal. Bar No. 252114

nbontrager@attorneysforconsumers.com

SUREN N. WEERASURIYA, Cal. Bar No 278521

sweerasuriya@attorneysforconsumers.com

LAW OFFICES OF TODD M. FRIEDMAN, P.C.

369 S. Doheny Drive, Suite 415

Beverly Hills, California 90211

Telephone: (877) 206-4741

Facsimile: (866) 633-0228

HYDE & SWIGART

Joshua B. Swigart, Esq. (SBN: 225557)

josh@westcoastlitigation.com

411 Camino Del Rio South, Suite 301

San Diego, CA 92108

Telephone: (619) 233-7770

Facsimile: (619) 297-1022

UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA
CIVIL COVER SHEET**I. (a) PLAINTIFFS** (Check box if you are representing yourself ☐)

AYMAN MOUSA, on behalf of himself and all others similarly situated

DEFENDANTS (Check box if you are representing yourself ☐)

TARGET CORPORATION

(b) County of Residence of First Listed Plaintiff Orange
(EXCEPT IN U.S. PLAINTIFF CASES)County of Residence of First Listed Defendant _____
(IN U.S. PLAINTIFF CASES ONLY)

(c) Attorneys (Firm Name, Address and Telephone Number) If you are representing yourself, provide the same information.

KAZEROUNI LAW GROUP, APC
245 Fischer Avenue, Suite D1
Costa Mesa, CA 92626
Phone: (800)400-6808

Attorneys (Firm Name, Address and Telephone Number) If you are representing yourself, provide the same information.

II. BASIS OF JURISDICTION (Place an X in one box only.)

- ☐ 1. U.S. Government Plaintiff ☐ 3. Federal Question (U.S. Government Not a Party)
- ☐ 2. U.S. Government Defendant ☒ 4. Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES-For Diversity Cases Only
(Place an X in one box for plaintiff and one for defendant)

- | | | | | | |
|---|---|---------------------------------------|---|--------------------------------|--------------------------------|
| Citizen of This State | PTF <input checked="" type="checkbox"/> 1 | DEF <input type="checkbox"/> 1 | Incorporated or Principal Place of Business in this State | PTF <input type="checkbox"/> 4 | DEF <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input checked="" type="checkbox"/> 2 | Incorporated and Principal Place of Business in Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. ORIGIN (Place an X in one box only.)

- ☒ 1. Original Proceeding ☐ 2. Removed from State Court ☐ 3. Remanded from Appellate Court ☐ 4. Reinstated or Reopened ☐ 5. Transferred from Another District (Specify) ☐ 6. Multi-District Litigation

V. REQUESTED IN COMPLAINT: JURY DEMAND: ☒ Yes ☐ No (Check "Yes" only if demanded in complaint.)**CLASS ACTION under F.R.Cv.P. 23:** ☒ Yes ☐ No **MONEY DEMANDED IN COMPLAINT:** \$ 5,000,000.00**VI. CAUSE OF ACTION** (Cite the U.S. Civil Statute under which you are filing and write a brief statement of cause. Do not cite jurisdictional statutes unless diversity.)

Jurisdiction is proper under 28 U.S.C. § 1332(d)(2)

VII. NATURE OF SUIT (Place an X in one box only.)

OTHER STATUTES	CONTRACT	REAL PROPERTY CONT.	IMMIGRATION	PRISONER PETITIONS	PROPERTY RIGHTS
<input type="checkbox"/> 375 False Claims Act	<input type="checkbox"/> 110 Insurance	<input type="checkbox"/> 240 Torts to Land	<input type="checkbox"/> 462 Naturalization Application	Habeas Corpus:	<input type="checkbox"/> 820 Copyrights
<input type="checkbox"/> 400 State Reapportionment	<input type="checkbox"/> 120 Marine	<input type="checkbox"/> 245 Tort Product Liability	<input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 463 Alien Detainee 510 Motions to Vacate Sentence	<input type="checkbox"/> 830 Patent
<input type="checkbox"/> 410 Antitrust	<input type="checkbox"/> 130 Miller Act	<input type="checkbox"/> 290 All Other Real Property	TORTS	<input type="checkbox"/> 530 General	<input type="checkbox"/> 840 Trademark
<input type="checkbox"/> 430 Banks and Banking	<input type="checkbox"/> 140 Negotiable Instrument	PERSONAL INJURY	PERSONAL PROPERTY	<input type="checkbox"/> 535 Death Penalty	SOCIAL SECURITY
<input type="checkbox"/> 450 Commerce/ICC Rates/Etc.	<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment	<input type="checkbox"/> 310 Airplane	<input type="checkbox"/> 370 Other Fraud	Other:	<input type="checkbox"/> 861 HIA (1395ff)
<input type="checkbox"/> 460 Deportation	<input type="checkbox"/> 151 Medicare Act	<input type="checkbox"/> 315 Airplane Product Liability	<input type="checkbox"/> 371 Truth in Lending	<input type="checkbox"/> 540 Mandamus/Other	<input type="checkbox"/> 862 Black Lung (923)
<input type="checkbox"/> 470 Racketeer Influenced & Corrupt Org.	<input type="checkbox"/> 152 Recovery of Defaulted Student Loan (Excl. Vet.)	<input type="checkbox"/> 320 Assault, Libel & Slander	<input type="checkbox"/> 380 Other Personal Property Damage	<input type="checkbox"/> 550 Civil Rights	<input type="checkbox"/> 863 DIWC/DIWW (405 (g))
<input type="checkbox"/> 480 Consumer Credit	<input type="checkbox"/> 153 Recovery of Overpayment of Vet. Benefits	<input type="checkbox"/> 330 Fed. Employers' Liability	<input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 555 Prison Condition	<input type="checkbox"/> 864 SSID Title XVI
<input type="checkbox"/> 490 Cable/Sat TV	<input type="checkbox"/> 160 Stockholders' Suits	<input type="checkbox"/> 340 Marine	BANKRUPTCY	<input type="checkbox"/> 560 Civil Detainee Conditions of Confinement	<input type="checkbox"/> 865 RSI (405 (g))
<input type="checkbox"/> 850 Securities/Commodities/Exchange	<input type="checkbox"/> 190 Other Contract	<input type="checkbox"/> 345 Marine Product Liability	<input type="checkbox"/> 422 Appeal 28 USC 158	FORFEITURE/PENALTY	FEDERAL TAX SUITS
<input checked="" type="checkbox"/> 890 Other Statutory Actions	<input type="checkbox"/> 195 Contract Product Liability	<input type="checkbox"/> 350 Motor Vehicle	<input type="checkbox"/> 423 Withdrawal 28 USC 157	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881	<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)
<input type="checkbox"/> 891 Agricultural Acts	<input type="checkbox"/> 196 Franchise	<input type="checkbox"/> 355 Motor Vehicle Product Liability	CIVIL RIGHTS	<input type="checkbox"/> 690 Other	<input type="checkbox"/> 871 IRS-Third Party 26 USC 7609
<input type="checkbox"/> 893 Environmental Matters	REAL PROPERTY	<input type="checkbox"/> 360 Other Personal Injury	<input type="checkbox"/> 440 Other Civil Rights	LABOR	
<input type="checkbox"/> 895 Freedom of Info. Act	<input type="checkbox"/> 210 Land Condemnation	<input type="checkbox"/> 362 Personal Injury-Med Malpractice	<input type="checkbox"/> 441 Voting	<input type="checkbox"/> 710 Fair Labor Standards Act	
<input type="checkbox"/> 896 Arbitration	<input type="checkbox"/> 220 Foreclosure	<input type="checkbox"/> 365 Personal Injury-Product Liability	<input type="checkbox"/> 442 Employment	<input type="checkbox"/> 720 Labor/Mgmt. Relations	
<input type="checkbox"/> 899 Admin. Procedures Act/Review of Appeal of Agency Decision	<input type="checkbox"/> 230 Rent Lease & Ejectment	<input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability	<input type="checkbox"/> 443 Housing/Accommodations	<input type="checkbox"/> 740 Railway Labor Act	
<input type="checkbox"/> 950 Constitutionality of State Statutes		<input type="checkbox"/> 368 Asbestos Personal Injury Product Liability	<input type="checkbox"/> 445 American with Disabilities-Employment	<input type="checkbox"/> 751 Family and Medical Leave Act	
		<input type="checkbox"/> 446 American with Disabilities-Other	<input type="checkbox"/> 448 Education	<input type="checkbox"/> 790 Other Labor Litigation	
				<input type="checkbox"/> 791 Employee Ret. Inc. Security Act	

FOR OFFICE USE ONLY:

Case Number:

CV-71 (11/13)

CIVIL COVER SHEET

Page 1 of 3

**UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA
CIVIL COVER SHEET**

VIII. VENUE: Your answers to the questions below will determine the division of the Court to which this case will most likely be initially assigned. This initial assignment is subject to change, in accordance with the Court's General Orders, upon review by the Court of your Complaint or Notice of Removal.

Question A: Was this case removed from state court? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If "no," go to Question B. If "yes," check the box to the right that applies, enter the corresponding division in response to Question D, below, and skip to Section IX.	STATE CASE WAS PENDING IN THE COUNTY OF:		INITIAL DIVISION IN CACD IS:
	<input type="checkbox"/> Los Angeles		Western
	<input type="checkbox"/> Ventura, Santa Barbara, or San Luis Obispo		Western
	<input type="checkbox"/> Orange		Southern
	<input type="checkbox"/> Riverside or San Bernardino		Eastern

Question B: Is the United States, or one of its agencies or employees, a party to this action? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If "no," go to Question C. If "yes," check the box to the right that applies, enter the corresponding division in response to Question D, below, and skip to Section IX.	If the United States, or one of its agencies or employees, is a party, is it:		INITIAL DIVISION IN CACD IS:
	A PLAINTIFF?	A DEFENDANT?	
	Then check the box below for the county in which the majority of DEFENDANTS reside.	Then check the box below for the county in which the majority of PLAINTIFFS reside.	
	<input type="checkbox"/> Los Angeles	<input type="checkbox"/> Los Angeles	Western
	<input type="checkbox"/> Ventura, Santa Barbara, or San Luis Obispo	<input type="checkbox"/> Ventura, Santa Barbara, or San Luis Obispo	Western
	<input type="checkbox"/> Orange	<input type="checkbox"/> Orange	Southern
	<input type="checkbox"/> Riverside or San Bernardino	<input type="checkbox"/> Riverside or San Bernardino	Eastern
<input type="checkbox"/> Other	<input type="checkbox"/> Other	Western	

Question C: Location of plaintiffs, defendants, and claims? (Make only one selection per row)	A. Los Angeles County	B. Ventura, Santa Barbara, or San Luis Obispo Counties	C. Orange County	D. Riverside or San Bernardino Counties	E. Outside the Central District of California	F. Other
Indicate the location in which a majority of plaintiffs reside:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Indicate the location in which a majority of defendants reside:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Indicate the location in which a majority of claims arose:	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

C.1. Is either of the following true? If so, check the one that applies: <input type="checkbox"/> 2 or more answers in Column C <input checked="" type="checkbox"/> only 1 answer in Column C and no answers in Column D Your case will initially be assigned to the SOUTHERN DIVISION. Enter "Southern" in response to Question D, below. If none applies, answer question C2 to the right. →	C.2. Is either of the following true? If so, check the one that applies: <input type="checkbox"/> 2 or more answers in Column D <input type="checkbox"/> only 1 answer in Column D and no answers in Column C Your case will initially be assigned to the EASTERN DIVISION. Enter "Eastern" in response to Question D, below. If none applies, go to the box below. ↓
Your case will initially be assigned to the WESTERN DIVISION. Enter "Western" in response to Question D below.	

Question D: Initial Division?	INITIAL DIVISION IN CACD
Enter the initial division determined by Question A, B, or C above: →	SOUTHERN DIVISION

UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA
CIVIL COVER SHEETIX(a). IDENTICAL CASES: Has this action been previously filed in this court and dismissed, remanded or closed? ☒ NO ☐ YES

If yes, list case number(s): _____

IX(b). RELATED CASES: Have any cases been previously filed in this court that are related to the present case? ☒ NO ☐ YES

If yes, list case number(s): _____

Civil cases are deemed related if a previously filed case and the present case:

(Check all boxes that apply)

- ☐ A. Arise from the same or closely related transactions, happenings, or events; or
- ☐ B. Call for determination of the same or substantially related or similar questions of law and fact; or
- ☐ C. For other reasons would entail substantial duplication of labor if heard by different judges; or
- ☐ D. Involve the same patent, trademark or copyright, and one of the factors identified above in a, b or c also is present.

X. SIGNATURE OF ATTORNEY
(OR SELF-REPRESENTED LITIGANT):

DATE: January 08, 2014

Notice to Counsel/Parties: The CV-71 (JS-44) Civil Cover Sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law. This form, approved by the Judicial Conference of the United States in September 1974, is required pursuant to Local Rule 3-1 is not filed but is used by the Clerk of the Court for the purpose of statistics, venue and initiating the civil docket sheet. (For more detailed instructions, see separate instructions sheet).

Key to Statistical codes relating to Social Security Cases:

Nature of Suit Code	Abbreviation	Substantive Statement of Cause of Action
861	HIA	All claims for health insurance benefits (Medicare) under Title 18, Part A, of the Social Security Act, as amended. Also, include claims by hospitals, skilled nursing facilities, etc., for certification as providers of services under the program. (42 U.S.C. 1935FF(b))
862	BL	All claims for "Black Lung" benefits under Title 4, Part B, of the Federal Coal Mine Health and Safety Act of 1969. (30 U.S.C. 923)
863	DIWC	All claims filed by insured workers for disability insurance benefits under Title 2 of the Social Security Act, as amended; plus all claims filed for child's insurance benefits based on disability. (42 U.S.C. 405 (g))
863	DIWW	All claims filed for widows or widowers insurance benefits based on disability under Title 2 of the Social Security Act, as amended. (42 U.S.C. 405 (g))
864	SSID	All claims for supplemental security income payments based upon disability filed under Title 16 of the Social Security Act, as amended.
865	RSI	All claims for retirement (old age) and survivors benefits under Title 2 of the Social Security Act, as amended. (42 U.S.C. 405 (g))

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

NOTICE OF ASSIGNMENT TO UNITED STATES JUDGES

This case has been assigned to District Judge David O. Carter and the assigned Magistrate Judge is Arthur Nakazato.

The case number on all documents filed with the Court should read as follows:

SACV14-00037 DOC (ANx)

Pursuant to General Order 05-07 of the United States District Court for the Central District of California, the Magistrate Judge has been designated to hear discovery related motions.

All discovery related motions should be noticed on the calendar of the Magistrate Judge.

Clerk, U. S. District Court

January 9, 2014

Date

By Lori Wagers
Deputy Clerk

NOTICE TO COUNSEL

A copy of this notice must be served with the summons and complaint on all defendants (if a removal action is filed, a copy of this notice must be served on all plaintiffs).

Subsequent documents must be filed at the following location:

☐ Western Division
312 N. Spring Street, G-8
Los Angeles, CA 90012

☒ Southern Division
411 West Fourth St., Ste 1053
Santa Ana, CA 92701

☐ Eastern Division
3470 Twelfth Street, Room 134
Riverside, CA 92501

Failure to file at the proper location will result in your documents being returned to you.